

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG**

BAUSCH HEALTH IRELAND LIMITED
and SALIX PHARMACEUTICALS, INC.,

Plaintiffs

V.

MYLAN LABORATORIES LTD.; AGILA SPECIALTIES INC.; MYLAN API US LLC; MYLAN INC.; VIATRIS INC.; and MYLAN PHARMACEUTICALS INC.,

Defendants.

Civil Action No. 1:22-CV-20 (Kleeh)

STIPULATION TO FILE AMENDED COMPLAINT AND AMEND CASE CAPTION

IT IS HEREBY STIPULATED, by and between the parties, and subject to the approval of
the Court, that:

WHEREAS, in the above-captioned action, Plaintiffs Bausch Health Ireland Limited and Salix Pharmaceuticals, Inc. (collectively, “Plaintiffs”) originally filed a Complaint for patent infringement against Mylan Laboratories Ltd. (“MLL”), Agila Specialties Inc. (“Agila”), Mylan API US LLC (“Mylan API”), Mylan Inc., Viatris Inc. (“Viatris”), and Mylan Pharmaceuticals Inc. (“MPI”) (collectively, the “Named Defendants”) in the District of New Jersey (“New Jersey court”) on April 28, 2021 (*see* ECF No. 1);

WHEREAS, on October 4, 2021, the Named Defendants moved to dismiss Plaintiffs' Complaint for improper venue, lack of subject matter jurisdiction, lack of personal jurisdiction, and failure to state a claim (*see* ECF Nos. 26, 27);

WHEREAS, on March 8, 2022, the New Jersey court granted-in-part and denied-in-part the Named Defendants' motion (*see* ECF Nos. 55, 56);

WHEREAS, the New Jersey court dismissed without prejudice Plaintiffs' claims as to all Named Defendants asserting patents for which MPI submitted to the FDA a certification stating MPI did not seek to enter the market until after those patents expired (Counts III, IV, V, VI) (*see* ECF No. 55 at 4 n.3), dismissed with prejudice Plaintiffs' declaratory judgment claims as to all Named Defendants (Counts II, VIII, X, XII, XIV, and XVI) (*see id.* at 22; *see also* ECF No. 56 at 2), and dismissed with prejudice Plaintiffs' patent infringement claims as to Viatris, Mylan Inc., Mylan API, MLL, and Agila (Counts I, VII, IX, XI, XIII, and XV) (*see* ECF No. 55 at 24-25), thus leaving only Plaintiffs' claims of patent infringement against MPI (Counts I, VII, IX, XI, XIII, and XV) in this action (*see id.*);

WHEREAS, the New Jersey court declined to dismiss the remaining claims of patent infringement against MPI (Counts I, VII, IX, XI, XIII, and XV) and instead transferred them to this District (*see id.*), which was effected on March 9, 2022, and declined to transfer claims against any other Named Defendant to this District (*see id.*);

WHEREAS, the parties have conferred and agreed, in the interest of streamlining the pleadings, that Plaintiffs will file a First Amended Complaint, consistent with the New Jersey court's March 8, 2022 Opinion and Order (*see* ECF Nos. 55, 56), which reflects that only Counts I, VII, IX, XI, XIII, and XV of Plaintiffs' Complaint remain against MPI were transferred to this District and directs Plaintiffs' venue and jurisdiction allegations to this District;

WHEREAS, a proposed First Amended Complaint is attached hereto as Exhibit A;

WHEREAS, the parties have agreed that the caption of this action be amended to reflect that MPI is the sole remaining defendant in this action;

WHEREAS, the parties have further agreed, upon entry of the proposed First Amended Complaint, MPI's Motion to Strike (ECF No. 83) will become moot;; and

WHEREAS, the parties have further agreed that, in filing a First Amended Complaint and in amending the caption of this action, Plaintiffs explicitly reserve all appellate rights and do not waive any right to appeal the New Jersey court's March 8, 2022 Opinion and Order (*see* ECF Nos. 55, 56);

NOW THEREFORE it is the Order of the Court, that:

1. The proposed First Amended Complaint attached hereto as Exhibit A will be entered on the docket;
2. MPI will answer or otherwise respond to the First Amended Complaint within 14 days of the First Amended Complaint being filed;
3. The caption is amended as follows:

BAUSCH HEALTH IRELAND LIMITED and SALIX
PHARMACEUTICALS, INC.,

v.

MYLAN PHARMACEUTICALS INC.

4. MPI's Motion to Strike is dismissed as moot; and
5. Plaintiffs have reserved all appellate rights and have not waived any right to appeal the New Jersey court's March 8, 2022 Opinion and Order (*see* ECF Nos. 55, 56).

It is so ORDERED.

Entered this ____ day of May, 2022.

Thomas S. Kleeh
United States District Judge

Respectfully submitted,

/s/ Daniel R. Higginbotham

Daniel R. Higginbotham (WV Bar No.11680)

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FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG

BAUSCH HEALTH IRELAND LIMITED, et al.,

Plaintiffs,

v.

Civil Action No. 1:22-cv-00020-TSK

MYLAN LABORATORIES, LTD, et al.,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of same to counsel of record.

/s/Daniel R. Higginbotham

Daniel R. Higginbotham (WVSB #11680)

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